

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 MARETTA D. WARD, State Bar No. 176470
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1384
6 Facsimile: (415) 703-5480
7 Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 JOSEPHINE F. NUEVO
1869 Whitecliff Way
13 San Maeto, CA 94402

14 Registered Nurse License No. 515670,
15 Public Health Nurse Certificate No. 54727,

16 Respondent.

Case No. 2007 - 156

ACCUSATION

17 Complainant alleges:

PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. Registered Nurse License. On or about September 8, 1995, the Board of
23 Registered Nursing ("Board") issued Registered Nurse License Number 515670 to Josephine F.
24 Nuevo ("Respondent"). The license will expire on June 30, 2007, unless renewed.

25 3. Public Health Nurse Certificate. On or about November 9, 1995, the
26 Board issued Public Health Nurse Certificate Number 54727 to Respondent. The certificate
27 will expire on June 30, 2007, unless renewed.

28 ///

JURISDICTION

4. Section 2750 of the Business and Professions Code ("Code") provides:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein."

5. Code section 2764 provides:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

STATUTORY PROVISIONS

6. Code section 2761, subdivision (a)(1), provides:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

7. Code section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1442, provides:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised

1 by a competent registered nurse. Such an extreme departure means
2 the repeated failure to provide nursing care as required or failure to
3 provide care or to exercise ordinary precaution in a single situation
4 which the nurse knew, or should have known, could have
5 jeopardized the client's health or life."

6
7
8 9. California Code of Regulations, title 16, section 1443, provides:

9 "As used in Section 2761 of the code, 'incompetence' means
10 the lack of possession of or the failure to exercise that degree of
11 learning, skill, care and experience ordinarily possessed and
12 exercised by a competent registered nurse as described in
13 Section 1443.5."

14 10. California Code of Regulations, title 16, section 1443.5 provides:

15 "A registered nurse shall be considered to be competent
16 when he/she consistently demonstrates the ability to transfer
17 scientific knowledge from social, biological and physical
18 sciences in applying the nursing process, as follows:

19 (1) Formulates a nursing diagnosis through observation
20 of the client's physical condition and behavior, and through
21 interpretation of information obtained from the client and
22 others, including the health team.

23 (2) Formulates a care plan, in collaboration with the client,
24 which ensures that direct and indirect nursing care services provide
25 for the client's safety, comfort, hygiene, and protection, and for
26 disease prevention and restorative measures.

27 (3) Performs skills essential to the kind of nursing action
28 to be taken, explains the health treatment to the client and family
and teaches the client and family how to care for the client's
health needs.

(4) Delegates tasks to subordinates based on the legal
scopes of practice of the subordinates and on the preparation and
capability needed in the tasks to be delegated, and effectively
supervises nursing care being given by subordinates.

(5) Evaluates the effectiveness of the care plan through
observation of the client's physical condition and behavior, signs
and symptoms of illness, and reactions to treatment and through
communication with the client and health team members, and
modifies the plan as needed.

(6) Acts as the client's advocate, as circumstances require,
by initiating action to improve health care or to change decisions or
activities which are against the interests or wishes of the client, and
by giving the client the opportunity to make informed decisions
about health care before it is provided."

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 11. Respondent's license is subject to discipline for unprofessional conduct
4 under Code section 2761, subdivision (a)(1), in that on or about October 10, 2003, while
5 employed at San Mateo County Health Center, located in San Mateo, California, and assigned
6 to care for Patient "A," a 71-year old male patient diagnosed with hypertension and diabetes,
7 Respondent committed acts of gross negligence, as follows:

8 a. At approximately 2100 hours, without obtaining a new blood pressure
9 reading from Patient "A," and without verifying the time of last medication administration,
10 Respondent administered three anti-hypertensive blood pressure medications to Patient "A",
11 whose blood pressure had dropped significantly and who was actually hypotensive, with a
12 starting blood pressure of 90/55.

13 b. Respondent failed to notify Patient "A's" physician of a significant
14 change in the patient's blood pressure reading, which went from 150/70 to 90/50 in a four hour
15 period.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Incompetence)

18 12. Respondent's license is subject to discipline for unprofessional conduct
19 under Code section 2761, subdivision (a)(1), in that on or about October 10, 2004, while
20 employed at San Mateo County Health Center, Respondent committed acts of incompetence, as
21 set forth under paragraph 11, above, and as follows:

22 a. Respondent failed to comprehend that the decrease in Patient "A's"
23 blood pressure reading from 150/70 at 1600 hours to 90/50 at 2000 hours indicated that the
24 patient's blood pressure was not within normal limits, and that it was a significant change in the
25 patient's condition which should have been communicated to the patient's physician.

26 ///

27 ///


28 ///

1 **PRAYER**

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing the Board issue a decision:

- 4 1. Revoking or suspending Registered Nurse License Number 515670,
5 issued to Josephine F. Nuevo;
6 2. Revoking or suspending Public Health Nurse License Number 54727,
7 issued to Josephine F. Nuevo;
8 3. Ordering Josephine F. Nuevo to pay the reasonable costs incurred by the
9 Board in the investigation and enforcement of this case pursuant to Code section 125.3; and,
10 4. Taking such other and further action as deemed necessary and proper.
11

12 **DATED:** 12/8/06
13

14
15 
16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant
22
23
24
25
26